

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, October 2, 2002, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Steve Duvall, Roger Larson, Patte Newman, Greg Schwinn, Mary Bills-Strand and Tommy Taylor (Gerry Krieser and Cecil Steward absent); Marvin Krout, Ray Hill, Ed Zimmer, Brian Will, Becky Horner, Duncan Ross, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the regular meeting held September 18, 2002. Carlson moved to approve, seconded by Newman and carried 7-0: Carlson, Duvall, Larson, Newman, Schwinn, Bills-Strand and Taylor voting 'yes'; Krieser and Steward absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

October 2, 2002

Members present: Carlson, Duvall, Larson, Newman, Schwinn, Bills-Strand and Taylor; Krieser and Steward absent.

The Consent agenda consisted of the following items: **Change of Zone No. 76HP; Special Permit No. 1987; Special Permit No. 1982, SUNSHINE HILLS COMMUNITY UNIT PLAN; Preliminary Plat No. 02015, SUNSHINE HILLS; Final Plat No. 02005, I-80 BUSINESS PARK ADDITION; Final Plat No. 02017, HARTLAND HOMES EAST 8TH ADDITION; Final Plat No. 02026, NORTH HILLS 3RD ADDITION; Final Plat No. 02031, ALDERWOOD ADDITION; Comprehensive Plan Conformance No. 02010; and Waiver of Design Standards No. 02018.**

Duvall moved to approve the Consent Agenda, seconded by Larson and carried 7-0: Carlson, Duvall, Larson, Newman, Schwinn, Bills-Strand and Taylor voting 'yes'; Krieser and Steward absent.

Note: This is final action on Special Permit No. 1987, I-80 Business Park Addition Final Plat No. 02005, Hartland Homes East 8th Addition Final Plat No. 02017, North Hills 3rd Addition Final Plat No. 02026 and Alderwood Addition Final Plat No. 02031, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 71HP,
A LANDMARK DESIGNATION AT
1650 LAKE STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 2, 2002

Members present: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Krieser and Steward absent.

Staff recommendation: Approval.

Proponents

1. Ed Zimmer of Planning staff submitted the application on behalf of the **Historic Preservation Commission** (HPC). This issue arose in the summer of 2001, when BryanLGH Medical Center applied for changes to its approved special permit and site plan, including the demolition of the former Teeters Nurses' Residence. A condition of approval of that special permit application was that prior to issuance of a demolition permit, the HPC should review eligibility of the Teeters Building for landmark designation and make a recommendation to the City Council.

The HPC took the responsibility of making a recommendation to the City Council and requested that Zimmer prepare a landmark designation. The HPC made an affirmative recommendation and accepted the request of the hospital for a 6-month deferral to study and examine how the hospital might use the building. That six months has past, and the HPC has recommended that this landmark designation proceed to be made. Zimmer has been in contact with a hospital representative, who has indicated that the hospital has not yet determined their position on the landmark designation. Zimmer presented the proposed landmark designation with a positive recommendation from the HPC and showed some slides of the building.

The building stands at 1650 Lake Street, with the narrow end of the building towards Lake, and then faces the former 16th Street right-of-way that is vacated. It is a red brick building with limestone trim. An addition was placed on the north end of the building about 1940 which bears the cornerstone as Sophie Teeters Nurses Home, Teeter was a long time supporter and President of Lincoln General Hospital. This was the family gift to the hospital and the Teeter ashes are also in the building. The HPC recommends this building

be designated as a landmark under §27.57.120 of the zoning ordinance for its quality as a fine example of institutional Colonial Revival architecture and as the remaining building on the Lincoln General Hospital campus dating back to the founding of that institution.

Zimmer also submitted two additional letters in support.

Zimmer reiterated that he has made contact with the hospital and they have not yet taken a position on the landmark designation.

Zimmer further clarified the ramifications of a landmark designation. If designated as a landmark, a demolition request would be forwarded to the HPC, which would render an opinion as to whether it meets the guidelines. The HPC can consider hardship. If the HPC makes a negative finding that they could not approve the demolition as appropriate or necessary by economic hardship, that would set off a waiting period of 6 months, at the end of which time the owner would be released to do what they originally outlined. The hospital has indicated that the use of the property will probably not change for two years. The ordinance clearly indicates that the owner makes the final decision. This particular landmark designation does not address any interior features of the building.

Neutral

1. Tom Huston appeared on behalf of **BryanLGH Medical Center**. The hospital certainly has been looking at what is possible for this building. The hospital had requested the 6-month extension to examine what alternative uses could be made of the building and what the potential costs of rehabilitation might be based on those uses. At this point, the hospital has not made any definitive conclusions on the potential uses. Huston did assure that this building will continue to be used as the Independence Center for at least two more years. The hospital Master Plan envisions the construction of a new Independence Center by the summer of 2004. The hospital has explored potential uses, not only with the hospital's architect, but also with Building & Safety, and it has been determined that the potential uses have to exclude any health care uses. This makes it difficult for a hospital. The interior of the building prevents it from being used for health care purposes. The hospital is looking at space planning and the long term.

Huston agrees that the structure meets the standard for landmark designation under the ordinance, but the hospital is struggling with the issue of being forced to make a decision before the hospital has identified potential uses. Huston suggested that the hospital will have to determine whether to support this designation when it reaches the City Council agenda. A prime consideration of the hospital is that they are dealing with a landlocked urban campus and the hospital does not want to expand beyond the borders if they can help it. Huston stressed that the hospital is respectful of historic preservation issues, and has demonstrated that in connection with the Bryan Home on its east campus. The hospital is also very

respectful of the opinions of its neighbors They have worked closely with the neighbors on the master plan issues. Many of the neighbors would like to see this building remain and if the hospital can identify an economic use of the building, it certainly will try to do so. There are no immediate plans to demolish the building.

The hospital will keep the building for at least two years and thereafter will look at alternative uses. Huston concluded, stating that this landmark designation is premature for the hospital.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 2, 2002

Newman moved approval, seconded by Larson.

Newman commented that the Commission has heard that the hospital is neutral and she believes it is a great idea to preserve some of our landmarks.

Schwinn believes that with the owner of the building basically telling us it is okay to go ahead, he will vote in favor. Schwinn recalled the Union Bank building on So. 48th that they have been able to use over and over again in various situations. He trusts that the hospital will find something to do with this building and do a good job with it.

Motion for approval carried 7-0: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Steward and Krieser absent.

CHANGE OF ZONE NO. 3376

FROM R-2 RESIDENTIAL TO H-3 HIGHWAY COMMERCIAL,

ON PROPERTY GENERALLY LOCATED

AT N.W. 14TH STREET AND WEST "O" STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 2, 2002

Members present: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Krieser and Steward absent.

Staff recommendation: Denial.

Becky Horner of Planning staff submitted a letter in opposition from the property owner at 240 N.W. 15th Street.

The applicant was not present.

There was no testimony in opposition.

Schwinn inquired whether the staff has had any contact from the applicant. Horner stated that she has not had any contact with the applicant.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 2, 2002

Duvall moved to deny, seconded by Newman and carried 7-0: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Steward and Krieser absent.

CHANGE OF ZONE NO. 3378
FROM R-5 RESIDENTIAL AND R-6 RESIDENTIAL
TO R-2 RESIDENTIAL, CONSISTING OF APPROXIMATELY
12 BLOCKS IN THE "MOUNT EMERALD" AREA OF
NEAR SOUTH NEIGHBORHOOD,
GENERALLY LOCATED AT SO. 18TH STREET
TO SO. 21ST AND 22ND STREETS, FROM
A TO F STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 2, 2002

Members present: Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Carlson declared a conflict of interest; Krieser and Steward absent.

Staff recommendation: Approval.

Proponents

1. Ed Zimmer of Planning staff submitted additional information for the record, including 25 letters/emails in support and 5 additional petitions in support. Zimmer also submitted answers to questions which had been posed by Bills-Strand regarding nonstandard and nonconforming uses as a result of this change of zone. With regard to nonstandard and nonconforming uses, Zimmer clarified that nonconforming uses cannot ordinarily be rebuilt without a special permit. However, the zoning ordinance relating to R-2 explicitly states that multiple dwellings existing at the date of the title (1979) become "nonstandard" if the R-2 district is applied. While nonconforming uses would require a special permit to be rebuilt if destroyed, nonstandard do not. Zimmer explained, however, that the nonstandard uses, while they can be rebuilt by right, must meet the yard requirements so the exact footprint might not be able to be rebuilt. The only difference in yard requirements between R-2 and R-5 and R-6, is a 25' front yard rather than 20' front yard. Zimmer clarified that all apartment units would become nonstandard as opposed to nonconforming.

Zimmer showed slides of the area. This change of zone covers portions of a couple of the Near South historic districts. Mount Emerald was a mansion built in 1880 by John Fitzgerald, who had a 10-acre home site with the grand mansion on the hill. The land was sold in 1904 with the mansion still standing and was platted with 55 house lots. The mansion burned down in 1907. It is an area that has been celebrated in postcards and photographs. There are some newer apartment buildings in the area as well as converted apartments. Zimmer has conducted the research and has been unable to find an apartment building in this area that was constructed after the 1979 date. The apartment buildings would become “nonstandard” and could be rebuilt. They would not be required to conform to the modern parking standard or the area per lot per unit requirements, but would have to comply with the building footprint.

Support

1. Dallas Jones, 1900 So. 25th Street, member of the Near South Neighborhood Association Board, testified in support. He advised the Commission that this change of zone is not something the neighborhood just thought of--this has been a multi-year endeavor for which they have been planning. There is widespread support for this endeavor in the affected area. The Neighborhood Association attempted to get a response from every owner in the area. There are over 90 petitions that were signed in favor, with one exception. They have received responses in favor from 15 of the 20 investment properties.

Jones further submitted that the reason Near South wants to change the zone is basically because the present use of this particular area is much more consistent with R-2 than R-5 or R-6. It is also much more consistent with the Historic Preservation efforts encouraged by the city some 20 years ago with the adoption of the landmark district. It is consistent with the public good. There are not many reasons why one would not be in favor.

Jones then cited language supporting this change from the Comprehensive Plan. R-6 is not consistent with what is going on in the neighborhood today. Jones assured the Commission that this is not an effort to bring in more and more apartments. The activity in the area is much more consistent with R-2 zoning. R-5 and R-6 zoning is not consistent with the efforts that are made in historic preservation. R-5 and R-6 encourage the development of properties for apartments rather than taking properties and deconverting into single family dwellings. Jones referred the Commission to the analysis in the staff report.

In further support, Jones noted that all existing properties are basically grandfathered. There is no use legal today that is not going to be legal tomorrow if this is approved.

2. Wynn Hjermstad, of the **Urban Development Department**, testified in support. The city does prepare a Consolidated Plan (the last one prepared in 2000 covers through 2003), which is a guide for housing and community development strategies in Lincoln. One of the issues identified as a problem for neighborhoods is density. Hjermstad submitted that when

properly planned, density is a very good thing; however, what we have seen in some older neighborhoods is R-6 on top of a single family neighborhood that stresses that neighborhood because of unplanned density. It causes problems with infrastructure, parking, etc. The Consolidated Plan contains a strategy to explore incentives to reduce residential density in older neighborhoods. Every year, the city prepares a one-year Action Plan to determine what will be done in the next year to meet the four-year goals in the Consolidated Plan. Another strategy is to amend the zoning within our neighborhood revitalization strategy area to promote single family home ownership. Hjermstad believes that is exactly what this proposed change of zone does.

3. David Witters, 1908 C Street, testified in support. He has witnessed many conversions that have destroyed the look and feel of the neighborhood. He is a member of the Near South Zoning Committee. He submitted that the cause of the problems is inappropriate zoning of historic neighborhoods and the need for downzoning. He referred to page 4 of the staff report, which states that, "Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses."

Witters believes there are many benefits with this change, including reduction in crime; fewer cars on the street; fewer cars will also mean improved parking, traffic flow and snow removal; less strain on infrastructure; a less transient population will make it easier for kids to develop and maintain relationships and friendships; more parental involvement and support; and increase in property tax base for this area. This is good for the neighborhood and it is called for in the Comprehensive Plan.

Approximately 40-50 people stood in the audience in support.

4. Rob Poggenpohl, 1975 B Street, testified in support. He resides and owns rental property in the area. As a business man he had to first consider how the proposal could negatively impact his rental property. His five-plex would be grandfathered and there would be no change in its current usage. Will this zoning change affect any future sale of my rental property? Will the zoning change decrease my property value? What about insurance? He was informed that his insurance was priced by his own choices. The two factors are what he owes on the property and how much insurance he chooses. His agent also told him that the zoning would not change the insurance rates if the usage remained the same. Another concern he dealt with was sale of his property. His mortgagee informed him that they grant loans on appraised value and cash flow. He was told that downzoning would increase the property's appraised value, making it easier to rent and eventually sell. He supports the downzoning and finds no negative impact as a homeowner or rental property owner. It will protect this historic part of Lincoln.

5. James E. Young, 1901 Prospect Street, testified in support. He used to live in the Mount Emerald district as a tenant for about 10 years. He has lived in Near South all his life. He is a 5th generation Lincolnite, the descendant of settlers of the Village of Lancaster in 1862. He is one of the founders of the Near South Neighborhood Association of 1972. He was President of the Near South Neighborhood Association when the Mount Emerald local landmark was established in 1981, and served on the Historic Preservation Commission for many years. He is a restoration carpenter. His wife, Marcy, was also President of the Near South Neighborhood Association and chaired the committee which published the Near South Walking Tour books. The Neighborhood Tour of Homes sparked much interest in residential preservation. He has seen many changes in the historic residential areas. Some were torn down for parking lots or new apartment buildings. Today we are seeing residents and homeowners taking a great deal of pride in the maintenance and restoration of historic buildings. This neighborhood has been through a lot. Now is the time to support those who spent so much time, effort and money preserving our history. Young urged the Commission to return the zoning of these residential areas to what has been their historic usage and which is now their current predominant use.

6. John Mercier, 1930 B Street, as a former renter and now owner in the Mount Emerald neighborhood, testified in support. As a renter back in the 1980's and 1990's, he lived at 1970 B Street, and in the last two years he has purchased a home at 1930 B Street. Since the time when he was a renter, three of the seven houses on the north side of B between 19th and 20th have deconverted from multi-family to single family dwellings. That is a very normal occurrence in this neighborhood at this time and something of which the neighborhood is very proud. The house that Mercier purchased was previously a boarding house that was unsuccessful after six months. After extensive restoration and investment, he brought it back to a single family dwelling. An important part of that situation is that as the property values in this area rise, it will be less likely for landlords or non-owner occupied situations to occur in this neighborhood in the future just from the standpoint that it will not cash flow. There will be more multi-family uses being deconverted back to single family dwellings and this is in everyone's best interest. Owner-occupied housing is something that the neighborhood supports.

7. Cathie Bailey, 1921 C Street, testified in support. She lived in east Lincoln for 20 years and three years ago purchased a home in Near South. At that time, she was reassured by Ed Zimmer that the R-6 zoning was in the landmark district so it was protected, but she does not believe the landmark district protects it enough. Near South is a 100+ year old neighborhood that was built before there was zoning, with good housing stock, unique architectural features, nearby retail, schools, churches and parks. They have the daily hassles of heavy traffic and noise. With the R-6 zoning the hassles increase due to the higher density. The current high density zoning in a single family neighborhood area has caused ugly blank wall slip-ins. However, despite the high density zoning, a lot of single family reinvestment is occurring.

Bailey recited that the primary purpose of zoning is to encourage a land use pattern to encourage reinvestment and improve the quality of life. R-2 zoning would help maintain the history of the area and better serve the collective interests of the neighborhood and the city as a whole. R-6 encourages higher density redevelopment. Although “downzoning” is not specifically cited, page F73 of the Comprehensive Plan encourages reconversion of single family structures to less intensive (single family uses) and/or more productive uses. Bailey referred the Commission to the analysis in the staff report which supports that R-2 zoning is more consistent with the Comprehensive Plan.

Bailey further stated that living in an area close to downtown has been a real paradigm shift for her. She now has an option to walk to work, to downtown, entertainment, shopping, churches, parks. There is an enjoyable diversity of age and ethnicity. The view from the homes is very special. This area provides a historic, aesthetic and unique quality and it deserves to be protected and preserved.

8. Ken Winston, 5520 S. 169th Street, Omaha, NE (as of September 17, 2002), testified in support. He lived in Lincoln for 32 years, and the last six of those 32 years were in the Near South neighborhood. He also is a member of the Near South Neighborhood Association. He was chair of the committee that began this downzoning effort. At least 12 meetings were held and he circulated petitions for signatures. Historic preservation is very important for the neighborhood and the community. It is in keeping with the character of the neighborhood. Most of the homes are already single family dwellings. Most conversions have been from multiple to single family. He believes it will protect the property values. The property values are 30-50 percent higher in a comparable area in Omaha because Omaha did not allow conversions and slip-ins. He believes the property values will be higher if the property is appropriately zoned. There is an issue of community preservation. Most communities experience decay in the core of their community, but if we do things like this that encourage single family dwellings and encourage middle class people to continue to reside in the heart of the community, that will help delay and prevent the urban decay and maintain the viability of the inner community.

9. Nora Houtsma, owner of the Rogers House at 2145 B Street and the Ricketts house at 2125 B Street, forming the Rogers House B&B Inn, which has been open for 18 years, testified in support. The Rogers House has a special zoning permit for historic preservation which enables this bed & breakfast business to be located in a residential neighborhood. The district is a treasure that we share with guests far beyond Lincoln, including Texas, Vermont, Missouri, Maryland, Australia, Bangladesh, just to name a few. These guests are drawn by appreciation of history and architecture. The Mount Emerald district is a treasure and deserves further protection for both its residents and for those who come from all places beyond. This change of zone is a strong step to further protect the neighborhood.

10. Greg McCown, 1812 D Street, real estate agent, landlord and property owner in the Near South area, testified in support. He has always appreciated the Near South neighborhood for its character and history. The real estate market in this neighborhood is very hot right now, bolstered by great interest rates. The houses are being purchased, restored and deconverted at a rapid pace. Our historic areas are positioned extremely well within our city. These districts enjoy close proximity to downtown, the children's museum, zoo, parks, playgrounds, bus routes, schools and a growing elderly population in our downtown environment. All of these attributes encourage families to live and enjoy these neighborhoods. Pure economics have helped Lincoln's core neighborhoods. Historic neighborhoods like the Near South provide the square footage at a price the owners can afford. They are worth more as single family rather than as conversions. R-5 and R-6 does not describe the highest and best use. The market for these rehabilitated homes is very good. The pride of ownership reverses the broken window phenomenon.

Personally, McCown he has lived in the Near South area since 1981. He purchased his home in 1994 and converted it from duplex to single family. By deconverting, he gained around \$20,000 in equity. He also recently purchased the Grainger House at 1970 B Street and will continue the deconversion process in that home.

Overall, McCown submitted that Lincoln has always taken pride in the integrity of the residential neighborhoods. Our historic neighborhoods are in a constant state of change caused by inappropriate zoning. His hope is that we can tip the scales towards saving Lincoln's history mirrored so perfectly in these old homes. The manner in which we regard our history reveals the way we will address our future.

Opposition

1. Jay McMaster, McMaster Enterprise, 858 So. 27th Street, testified in opposition. He has been a realtor for over 63 years. He owns over 12 properties in the area proposed to be downzoned. He believes the property should be left alone. It has been doing what you want it to do. He disagrees with some of the values that have been set. There will be additional taxes on the higher values and the mortgages will go up. This is a problem that does not need to be solved. It is not broken. Leave it alone.

2. Tom Laging, 4100 South Street, testified in opposition. He lived in Near South in Mount Emerald for some 35 years and owns rental property at 1212 So. 20th. In his teaching career, Laging and a colleague authored the Capitol Environs plan, which was one of the first historic surveys of Near South, and it lead to the development of the Mount Emerald district. He believes that the overlay designation that exists provides a protection for the neighborhood and it is in that protection that the historic district gets its power to control what goes on. His feeling about the change of zone is slightly different. This is an attempt to put a suburban density in an inner city neighborhood and he is opposed from the perspective of "just lowering

the density". It is still possible to have good density in this historic district if the overlay district contains the proper designation.

Laging further submitted that it is not a density issue as much as it is a quality issue. He believes as an architect that he can do a four-plex or a six-plex, and do a credible job of meeting the criteria that that district has for design. It may not be the old traditional thing, but it would be contextual. That's the issue--to be able to maintain the place quality and the contextual quality of Mount Emerald and still allow reinvestment to occur. Density is good because it allows us to preserve the pedestrian quality of that area. It is accessible to downtown and you can build on that pedestrian quality of the neighborhood by maintaining its density.

Laging further suggested that if we are truly trying to get the Near South to improve, we should expand the historic districts and the overlay district to encourage more areas and more mixed use areas. There is a tendency with the R-2 to be exclusionary and he does not like that. The neighborhood right now allows a broad range of incomes, renters and owners, and that is positive.

Laging believes that the real issue here is to produce a zoning ordinance that permits the kind of contextual basis for making judgments. If he were to look at what's possible given the existing versus the proposed, it simply says that it is impossible for an owner that has a 50' x 142' lot to construct anything but a single family house as a reuse. He assumes that a four-plex is grandfathered, but if you have a two-plex you cannot go to a four-plex. He believes he can do a credible job on his property of building a four-plex that fits that is of higher quality construction and would be a credit to the neighborhood.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 2, 2002

Newman moved approval, seconded by Larson.

Newman observed that there is overwhelming neighborhood and community support. The Historic Preservation Commission voted unanimously in favor. She believes all property owner rights are protected. It is in conformance with the Comprehensive Plan. The time is right. She does not see a downside. She is thrilled that the neighborhood association came forward with this request.

Bills-Strand did have concerns about protecting homeowners of the multiples. Given the change from nonconforming to nonstandard is important. She will vote in favor because it is a unique and historic area.

Schwinn will support this because of the overwhelming support. However, he finds it interesting that the two things people don't like are sprawl and density, and he hasn't figured out how we are going to make both of those work. He did appreciate Mr. Laging's comments about what can be done; however, he has done work in older neighborhoods in Clinton and East Campus and it has been easy to do redevelopment within the R-2 zoning.

Motion for approval carried 6-0: Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Carlson declaring a conflict of interest; Krieser and Steward absent

**CHANGE OF ZONE NO. 3375,
FROM R-1 RESIDENTIAL AND
AGR AGRICULTURAL RESIDENTIAL
TO O-3 OFFICE PARK**

and

**USE PERMIT NO. 146,
FOR A 60,000 SQ. FT. OFFICE AND FINANCIAL BUILDING,
ON PROPERTY GENERALLY LOCATED AT
HIGHWAY 2 AND OLD CHENEY ROAD.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 2, 2002

Members present: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Krieser and Steward absent.

Staff recommendation: Approval of the change of zone and conditional approval of the use permit, as revised.

Brian Will of Planning staff submitted a memo to the Planning Commission and explained that these applications were delayed at the last hearing to resolve some outstanding issues, most of which have been resolved. However, there is one outstanding issue, that being the required turnaround for Wagon Lane. The staff did suggest to the applicant one alternative to resolve this issue, i.e. the city would petition to vacate Wagon Lane, the benefit being that the city could then donate the property to the adjacent property owners as opposed to the obligation to sell the property to the adjacent owners. Will advised that at this point, that process has not been initiated and it would require consideration by the Commission and City Council.

Proponents

1. Steve Miller with Olsson Associates, testified on behalf of West Gate Bank, the applicant. He concurred that the applicant has worked with staff and resolved every issue except for the Wagon Lane turnaround. The applicant is requesting a waiver of that condition. The applicant

has requested that the waiver and the previous street vacation come back to the Planning Commission for hearing on October 16th. The applicant agrees to all other conditions of approval on the use permit.

Miller explained the rationale for the request to waive the turnaround requirement and showed some photographs of the existing condition of Wagon Lane and So. 62nd. Miller submitted that it would be most appropriate to address the Wagon Lane turnaround when and if the adjacent property develops. West Gate Bank has not had any contact with the property owners and believe this is the best that can be done at the present time.

Carlson mentioned the sight line view heading west on Hwy 2. Miller indicated that they have created an elevation that tries to address that issue, showing the building height. The building would be screened almost completely by the existing tree line that will be retained. There was no testimony in opposition.

Staff questions

Will acknowledged that there are two other associated applications pending. One of them is the street vacation of Wagon Lane, which was considered by the Planning Commission back in January and which has not been forwarded to the City Council due to the conditions of approval. Additionally, the applicant has submitted a request for waiver of design standards to waive the requirement for 60' radius turnaround.

Miller further clarified that the application for street vacation was submitted by the previous property owner in January. This applicant was not party to that application at that time.

Will confirmed that the street vacation and the waiver are currently undergoing review and will be before the Commission on October 16th. The staff in large part agrees with the issues that have been raised; however, the turnaround is a technical issue that the staff cannot ignore. We need to deal with it one way or the other, whether vacating the entire street or waiving the design standards. The condition of the street vacation approved by the Planning Commission in January was that the turnaround be required. The Commission can reconsider that application and revise that recommendation, if desired.

If the Commission wishes to move forward with the change of zone and use permit, Will suggested amending Condition #1.1.1, adding language "...unless Waiver of Design Standards No. 02020 is approved by the City Council". Waiver of Design Standards No. 02020 is the application to waive the turnaround which will be on the Planning Commission agenda on October 16, 2002.

Public hearing was closed.

CHANGE OF ZONE NO. 3375

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 2, 2002

Duvall moved approval, seconded by Larson and carried 7-0: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Krieser and Steward absent.

USE PERMIT NO. 146

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 2, 2002

Duvall moved conditional approval, with amendment to Condition #1.1.1 adding language, "...unless Waiver of Design Standards No. 02020 is approved by the City Council.", seconded by Newman.

Schwinn observed that this is a home-owned business in the Lincoln community and we need to make sure these people can move forward when they are willing to make this kind of investment in our community. He appreciates West Gate Bank making this investment in the community.

Motion for conditional approval, with amendment to Condition #1.1.1, carried 7-0: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Krieser and Steward absent.

USE PERMIT NO. 89B,

TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES

FOR CONSUMPTION ON THE PREMISES WITHIN

100' OF A RESIDENTIAL DISTRICT,

ON PROPERTY GENERALLY LOCATED

AT SO. 14TH STREET AND PINE LAKE ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 2, 2002

Members present: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Krieser and Steward absent.

Brian Will of Planning staff submitted a letter from the applicant's representative requesting that this application be placed on the Planning Commission's pending list. The attorney for the applicant has a meeting scheduled with city staff to discuss potential changes to the Municipal Code that may impact this application.

Carlson moved to place on pending, seconded by Bills-Strand and carried 7-0: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Krieser and Steward absent.

There was no other public testimony.

**SPECIAL PERMIT NO. 1691C,
AN AMENDMENT TO THE
SHADOW PINES 1ST ADDITION
COMMUNITY UNIT PLAN, FOR
16 DWELLING UNITS,
ON PROPERTY GENERALLY LOCATED
AT SO. 56TH STREET AND SHADOW PINES DRIVE.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** October 2, 2002

Members present: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Krieser and Steward absent.

Proponents

1. **Brian Carstens** appeared on behalf of **Canyon Homes, L.L.C.** This is a request to finish up the Shadow Pines CUP. Some four years ago, this was approved as a larger CUP. The area they are working on with this application is shown to be configured with 16 residential lots. Today there is an existing single family residence that will be relocated off the site and a three-stall garage that will be removed. The project will consist of 8 duplex structures, probably 2-stories in height. The waivers are being requested to make the plan as per the original concept. The waiver of lot depth from 120' to 101' is along the lots on South 56th. The waiver of lot width from 40' to 37' is for the west side of Shadow Pines Place. The reason for the waiver is because the developer was unable to negotiate a sanitary and storm sewer easement from the neighbor to the north. The applicant is also requesting a waiver of lot area from 5,000 sq. ft. to 3,700 sq. ft. This does not affect all of the lots. It would be the lots on the west side of the project. All other lots on the east side will meet the lot area requirement.

Carstens proposed to delete Condition #1.1.1 which requires a T intersection. The developer has no problem with the T intersection on the west side, but on the east side it will be in the driveway.

Carstens also proposed to delete Condition #1.1.12 which requires the lot width to be shown as 40'. The waiver requests that this be reduced to 37'. 40' would reduce the number of units on the west side of the street from 8 to 7.

Carstens submitted that this proposal follows the conceptual plan originally shown on the CUP and preliminary plat four years ago.

Opposition

1. Jack Coupe, 5715 Shadow Lane, testified in opposition with some concerns as a resident of the Shadow Pines development. Fifty-seven townhomes have already been sold with 18 units to be built, for a total of 75 townhomes. These townhomes have been built on an area of approximately 14 acres, with standard size lots and minimum of 5,000 sq. ft. The normal street width is 27 feet. Canyon Homes has requested a lot size variance for the 16 units to be built on 1.55 acres. Coupe has done the calculations and submits that this is an extreme variance from the standard 5,000 sq. ft. that all of the platted and designated lots do meet.

A good comparison of this project is the development at Vavak Ridge on the west side of 56th south of Pioneers Blvd. and north of Elkcrest Drive. The size of the Vavak Ridge development is 3 acres. There are going to be 22 townhomes, 2-3 bedrooms with 90% with basements. The size of units will range from 1020 sq. ft. to 1211 sq. ft. with price range of \$114,000 to \$160,000. Vavak Ridge has been under construction for one year. Sales to date are nine, two of which have been purchased as rentals.

Canyon Homes is proposing 16 2-story townhomes with 2-stall garages. He has been told that the first floor will be 700 sq. ft. and 900 sq. ft. on the second floor with four bedrooms and no basements. He estimates that the price range is going to be \$150,000 to \$165,000.

Coupe performed a market study with data obtained from the Lincoln Board of Realtors. There are currently 69 2- and 3-bedroom townhomes priced between \$100,000 and \$150,000; there are currently 24 townhomes between \$150,000 and \$175,000, for a total of 93 townhome units that are currently on the market. Coupe pointed out that out of the 93 units that are currently for sale in the Lincoln market, there are only 6 with 4-bedroom units. He does not believe that a 4-bedroom unit is going to be a hot item for the market. These units will not be purchased by young families. The price may be a deterrent, and there are no yards for kids to play. It is an extremely tight layout. Professional singles or newlyweds do not need 4-bedroom units at this time. Older empty nesters do not like to climb stairs and do not need four bedrooms. Probably the most interested buyer in this type of development is going to be for investment purposes or rental units.

Coupe fears that what will happen over time is that this development will turn into an unlicensed 16-plex with 4-bedroom units. There will be insufficient parking (there is no off-street parking); driveways are less than 16' in depth; the traffic is going to be horrendous because there is only one egress into this entire development and it is off of 56th Street. We've been told there will not be a traffic light there. Can you imagine 50-60 vehicles trying to get out on that street at rush hour traffic? Coupe suggested that even the study done by Planning Department does not give an overwhelming approval for this project.

Coupe believes this property could be developed into 8 lots that would be comparable and certainly a lot more compatible with the existing 75 homes in the Shadow Pines development now.

Staff Questions

Carlson asked staff to respond to the requested amendments to the conditions of approval. Tom Cajka of Planning staff believes that Condition #1.1.1 could be amended to show a turnaround in Outlot C.

Staff is not opposed to deleting Condition #1.1.12.

Response by the Applicant

After further discussions with staff, Carstens indicated that he believes he can work with Condition #1.1.1 as stated.

Carstens pointed out that this development meets the density requirements under the community unit plan standards. 116 units are allowed in the CUP--there are roughly 92 units shown, so this proposal does not maximize the density. With regard to parking and the number of vehicles, Carstens pointed out that there are two-stall garages on each unit. There is also a two-stall driveway on each unit that is 22' deep. There are four parking spaces per unit--only two are required.

Carstens also pointed out that the existing Shadow Pines has very little opportunity for parking on the street.

Carstens agreed that there is only one access; however, the developer was required to relinquish access to 56th Street with the original CUP. They do not have a choice.

Carstens continues to request that Condition #1.1.12 be deleted.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 2, 2002

Carlson moved to approve the staff recommendation of conditional approval, with amendment deleting Condition #1.1.12, seconded by Schwinn.

Carlson believes the T turnaround is no longer an issue (Condition #1.1.1). He also believes the waiver of lot width from 40 feet to 37 feet is acceptable.

Schwinn agreed with Carlson. 40 feet to 37 feet is not that big of a change. Again, we continue to receive comments about density versus sprawl and Schwinn believes that Commissioner Steward (if he were here) would agree that these are ways to create higher density uses, and in this particular case, it can work.

Motion for conditional approval, with amendment deleting Condition #1.1.12, carried 5-2: Carlson, Larson, Duvall, Bills-Strand and Schwinn voting 'yes'; Newman and Taylor voting 'no'; Krieser and Steward absent.

COMPREHENSIVE PLAN CONFORMANCE NO. 02008
TO REVIEW THE NORTH 27TH STREET CORRIDOR AND
ENVIRONS REDEVELOPMENT PLAN AS TO CONFORMANCE
WITH THE COMPREHENSIVE PLAN.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: October 2, 2002

Members present: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn; Krieser and Steward absent.

This application was deferred on September 4, 2002, with a request by the Commission for a staff briefing, which was held at noon on October 2, 2002.

Proponents

1. Wynn Hjermstad appeared on behalf of the **Urban Development Department** to answer questions.

Schwinn noted that the Planning Commission did receive a briefing at noon today.

Support

1. Anthony Bonnelli, President of the **North 27th Street Business and Civic Association**, testified in support. This has been a very inclusive situation where several meetings have been held with individuals from the businesses, neighborhood associations and civic organizations in the affected area.

2. Maurice Baker, 3259 Starr Street, testified on behalf of **Clinton Neighborhood Organization** in support. There are things going on as a result of this that really add to our neighborhood.

3. Peggy Struwe, 530 No. 25th Street, immediate past president and current secretary of the **Hawley Neighborhood Association**, testified in support. Residents in this area are very excited about the changes that have been occurring on No. 27th Street. The Hawley

Neighborhood Association has been included in the meetings that have occurred. Struwe requested that the Commission please approve this plan.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 2, 2002

Newman moved to find the proposed redevelopment plan to be in conformance with the Comprehensive Plan, seconded by Taylor.

Carlson expressed appreciation to Urban Development for the briefing provided to the Commission, giving the Commissioners an opportunity to understand and digest the plan.

Motion carried 7-0: Carlson, Larson, Duvall, Newman, Bills-Strand, Taylor and Schwinn voting 'yes'; Krieser and Steward absent.

There being no further business, the meeting was adjourned at 3:15 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 16, 2002.